

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

HECTOR CRUZ DIAZ,
v.
CLAIRE STORES, INC.

CASE NUMBER: 98-1598 (DRD)

ORDER

A Judgment and accompanying Order dismissing this case were issued on August 1, 2000 (Docket Nos. 5 & 6) following Plaintiff's failure to respond to an order to show cause by July 31, 2000 why this case should not be dismissed for lack of prosecution. (Docket No. 4). Thereafter, the Court issued an Order on August 9, 2000 which reads in pertinent part:

"Attorney, Edna I. Beltan-Silvagnoli, filed a motion that the Court considers good cause for the Plaintiff's failure to timely respond to the July 17, 2000 Order to Show Cause. (Docket No. 7). However, the motion does not explain Plaintiff's lack of diligence and failure to prosecute this case.

To rectify this obvious deficiency, the Plaintiff filed a motion requesting the Court to reconsider its judgment and dismissal (Docket No. 8), and a motion in compliance with the Order to Show Cause and requesting dismissal pursuant to FED.R.CIV.P. 41(a)(1)(ii). (Docket No. 9). First, the motion for reconsideration does not delineate sufficient facts to put the Court in a position to reconsider its dismissal due to lack of prosecution. Second, even if the Plaintiff had requested the dismissal of Plaintiff's federal cause of action, this case would not have been dismissed in its entirety because removal and this Court's jurisdiction are based on both federal question and diversity jurisdiction. (Docket No. 1). And, as for the request for dismissal pursuant to FED.R.CIV.P. 41(a)(1)(ii) no stipulation of dismissal signed by the parties was filed. Wherefore, the Plaintiff is **GRANTED** until **August 18, 2000** to supplement the record as directed.


Absolutely **NO** extension shall be entertained and will be summarily stricken."

(Docket No. 10). The Defendant, Claire Stores, Inc., has filed an opposition to the Plaintiff's motion requesting the dismissal of this case under FED.R.CIV.P. 41(a)(1). (Docket No. 11). On the other hand, the Plaintiff has failed to respond. However, the Court has noticed that the August 9, 2000 order (Docket No. 10) was notified to only two (2) attorneys. Upon investigation the attorneys notified were Vicente J. Antonetti and E. Ivonne Beltrán. Because the order (Docket No. 10) was directed to Plaintiff's counsel, Gregorio Lima, whom was not notified with the order, the Court hereby **GRANTS** the Plaintiff until **September 21, 2000** to supplement the record as directed. Thereafter, the Defendant may oppose, if necessary, by **September 28, 2000**. The Clerk of Court is hereby **ORDERED** to notify Plaintiff's counsel, Gregorio Lima, and recognize him as the Plaintiff's attorney of record. Absolutely **NO** extension shall be entertained and will be summarily stricken.

IT IS SO ORDERED.


Date: September 13, 2000

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DANIEL R. DOMINGUEZ
U.S. District Judge

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